THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

Date: 05—09—2005

W.P. No. 19562 of 2005

Between:

M/s. Gold Stone Exports Limited,

Rep. by its Director P.V.S. Sarma …Petitioner.

A n d

Assistant Commissioner of Income Tax Appeals-II,

Hyderabad and two others.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P. No. 19562 of 2005

O R D E R: (per Sri B. Sudershan Reddy, J)

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the Department and at their request the matter is taken up for disposal even at the stage of admission. Rule nisi.

The writ petition is directed against the order dated 25.2.2005 passed by the Income Tax Appellate Tribunal, Hyderabad Bench 'A', Hyderabad, whereunder the Appellate Tribunal rejected the very stay petition filed by the petitioner – assessee.

In our considered opinion, the writ petitioner made out a clear *prima facie* case for grant of stay of the demand notice during the pendency of the appeal and, therefore, the Tribunal ought to have granted stay as prayed for by the petitioner herein.

It is true, normally this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, will not interfere with the interlocutory orders unless a clear case is made out. In our considered opinion, refusal to grant stay of the demand notice as prayed for by the petitioner has resulted in causing serious inconvenience and prejudice to the petitioner.

The impugned order itself reads as if the appeal was to be heard and disposed of on 17th March, 2005. But, the fact remains that so far the appeal is not heard and disposed of by the Appellate Tribunal.

In the circumstances, this writ petition is disposed of directing the Appellate Tribunal to dispose of the appeal preferred by the petitioner herein in ITA No. 1211/(Hyd)/04 as expeditiously as possible, preferably within a period of ten weeks from today. In the meanwhile, the impugned demand notice shall not be given effect to. There shall be an order accordingly.

B. Sudershan Reddy, J.

_____ S. Ananda Reddy, J.

Date: 05—09—2005.

MVB.